FISCAL NOTE

Bill #: HB0201 **Title:** Fund natural resource damage litigation

Primary Sponsor: Ripley, R **Status:** As Introduced

Sponsor signature Date David Ewer, Budget Director Date

Fiscal Summary

	FY 2006 Difference	FY 2007 Difference
Expenditures:		
State Special – Natural Res. Damage Litigation	$220,000	$220,000
Revenue:		
General Fund	($12,100)	($24,200)
State Special – Natural Res. Damage Litigation	$220,000	$220,000
Trust Fund – Coal Tax Permanent Trust	($220,000)	($220,000)
Net Impact on General Fund Balance:	($12,100)	($24,200)

- ☐ Significant Local Gov. Impact
- ☐ Included in the Executive Budget
- ☐ Dedicated Revenue Form Attached
- ☐ Technical Concerns
- ☒ Significant Long-Term Impacts
- ☐ Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

Department of Justice (DOJ)

1. The bill re-appropriates the remainder at 6/30/05 of the current biennium's funding from HB 160 (2003 session) into the next biennium. It is estimated that out of the original $650,000, approximately $440,000 will be remaining at 6/30/05. Funding is through a loan, in the nature of a line of credit, from the Coal Tax Severance Permanent Fund to continue the state's natural resource damage litigation against the Atlantic Richfield/British Petroleum Company (ARCO). Damages recovered by the state in the litigation will be used to reimburse the Coal Tax Fund for this loan, including lost interest on the money, to the extent consistent with state and federal law.
2. In FY 1999, the state settled a major portion of this lawsuit against ARCO and repaid approximately $14.9 million, including $3 million in interest, to the Coal Tax and general fund for all loans previously made to the Program for the years 1985 through 1997. The settlement also resulted in damages paid to the state, which were deposited into a $130 million Restoration Fund for restoration of natural resources in the Upper Clark Fork River Basin.

3. Final settlement or adjudication of the case during the 2007 biennium would likely result in the repayment of funds appropriated pursuant to HB 201; however, a specific repayment amount cannot be estimated with certainty because the case is still in litigation.
4. Section 1 contains a biennial appropriation. It is estimated that about 50 percent of the appropriation will be spent in each year of the biennium. This results in a cost of $220,000 a year ($440,000 for the biennium). Also, about 67 percent of the program's budget is for contracted services (expert witness and other outside litigation costs).
5. The NRD program has been responsible for performing the necessary natural resource damage assessments and pursuing the lawsuit against ARCO since 1991. When the state received the settlement money in the summer of 1999, it reorganized the program into two components: litigation and restoration.
6. The litigation component is responsible for continuing to pursue the lawsuit. This component continues to require funding from legislatively appropriated sources.
7. The restoration component is responsible for overseeing the Restoration Fund and making recommendations to the Governor on how to spend the damages consistent with the legal requirement that the money be spent to restore natural resources in the Upper Clark Fork Basin. This component of the program is completely funded with non- budgeted funds called the Restoration Fund.
8. The program has 8.00 FTE. These FTE work in both the litigation and restoration components of the Program. For the budget that follows, it is estimated that $73,000 (2.00 FTE) will be spent each year for personal services out of the litigation component, which is funded by HB 201. The balance of the FTE (6.00) will be funded out of a non-budgeted Restoration Fund.

Department of Commerce (DOC)

9. There has been $210,000 of the $650,000 loan already drawn down. The remaining $440,000 would be drawn down as follows: loans of $220,000 would be made July 1, 2005 and July 1, 2006. The permanent fund is currently invested in the trust funds bond pool (TFBP), which serves as a mutual fund type investment for the state's major long-term trust funds. The permanent fund's holdings of TFBP shares would be reduced beginning in FY 2006. Interest earnings on the permanent fund are deposited to the State's general fund. The projected interest rate on the TFBP for FY 2006 and FY 2007 is 5.5 percent. Interest earnings distributed to the general fund would be reduced by $12,100 in FY 2006 and $24,200 FY 2007 (5.5% x $220,000 and 5.5% x $440,000) due to this loan. To the extent that interest is paid on the loan, the general fund loss would be reduced by the amount of that interest.

10. The Board of Investments will book the loan as a receivable in the permanent fund. The loan would be repaid from funds recovered through the litigation program. The timing of loan repayment is unknown.

FISCAL IMPACT:

	FY 2006 Difference	FY 2007 Difference
FTE	2.00	2.00
Expenditures:		
Personal Services	73,000	73,000
Operating Expenses	147,000	147,000
TOTAL	$220,000	$220,000
Funding of Expenditures:		
State Special (02)DOJ Natural Res. Damage Litigation	$220,000	$220,000

Revenues:		
General Fund (01)	($12,100)	($24,200)
State Special (02)DOJ Natural Res. Damage Litigation	$220,000	$220,000
Trust Fund (09) Coal Tax Permanent Fund	($220,000)	($220,000)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):		
General Fund (01)	($12,100)	($24,200)
State Special (02)DOJ Natural Res. Damage Litigation	$0	$0
Trust Fund (09) Coal Tax Permanent Fund	($220,000)	($220,000)